

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 06-4073-01-CR-C-SOW
)	
ROBERT JOSEPH SMART,)	
)	
Defendant.)	

ORDER

On February 27, 2008, United States Magistrate Judge William A. Knox recommended that the Government's motion requesting the court to authorize forcible medication of defendant Smart to render him competent to stand trial be denied. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed and the parties have advised the court that no exceptions will be filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

The records submitted to the court also indicate that in the absence of medication, defendant's mental condition will not improve to permit the present criminal proceedings to go forward. Thus, under 18 U.S.C. § 4241, defendant is subject to the provisions of 18 U.S.C. §§ 4246 and 4248. Under section 4246(a), a determination shall be made whether defendant is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to the property of another. Prior to conducting a hearing on the issue, however, the court directs that a psychiatric or psychological examination be made, pursuant to section 4246(b), and a report be prepared and filed with the court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of February 27, 2008, is adopted. [43] It is further

ORDERED that the Government's motion requesting the court to authorize forcible medication of defendant Robert Joseph Smart to render him competent to stand trial is denied. It is further

ORDERED that defendant Robert Joseph Smart is committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4247, for a reasonable time, not to exceed 45 days, for the purpose of conducting a psychological or psychiatric examination as authorized by 18 U.S.C. § 4246(b). It is further

ORDERED that the examination shall be completed within 45 days of the entry of this order and a report shall be filed with the court within 21 days after the examination. It is further

ORDERED that the report advise the court whether defendant is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to the property of another. It is further

ORDERED that the director of the facility may apply for an extension upon a showing of good cause, pursuant to 18 U.S.C. § 4247(b).

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: March 10, 2008